

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

NOV 20 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
)	
Closed Captioning and Video)	MM Docket No. 95-176
Description of Video Programming)	
)	
Implementation of Section 305 of)	
the Telecommunications Act of 1996)	
)	
Video Programming Accessibility)	

OPPOSITION TO PETITION FOR RECONSIDERATION

The Radio-Television News Directors Association ("RTNDA"), by its attorneys, and pursuant to the Public Notice issued by the Commission, Report No. 2237 (released November 5, 1997), and Section 1.4(b)(1) of the Commission's rules, 47 C.F.R § 1.4(b)(1), hereby submits this Opposition to the Petition for Reconsideration ("Petition") filed by the National Association of the Deaf and the Consumer Action Network (collectively, "NAD") in the above-captioned proceeding.

RTNDA is the world's largest professional organization devoted exclusively to electronic journalism. RTNDA's membership includes news executives in broadcasting, cable and other electronic media in more than thirty countries.

Among other things, NAD seeks reconsideration of the Commission's determination, as articulated in its Report and

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Order adopting rules governing closed captioning of video programming,¹ not to set separate benchmarks for captioning of live news programming, not to adopt limits on the methodology that can be used to create closed captioning, and to permit the use of electronic newsroom ("ENR") captioning.

While RTNDA does not dispute the benefits of making news and information programming accessible to the largest number of viewers possible, including the deaf and hard of hearing, as the Commission has itself determined, and as explained more fully below, setting artificial, expedited benchmarks for captioning of such programming, and/or mandating the use of real-time captioning for news programming, will serve only to reduce the quality and quantity of news and public affairs programming, particularly local news and information programming, available to the general public. Moreover, the substantial efforts that have been made over recent years to caption news programming demonstrate that the marketplace has worked to insure that this news programming is increasingly accessible to the deaf and hearing impaired. There is

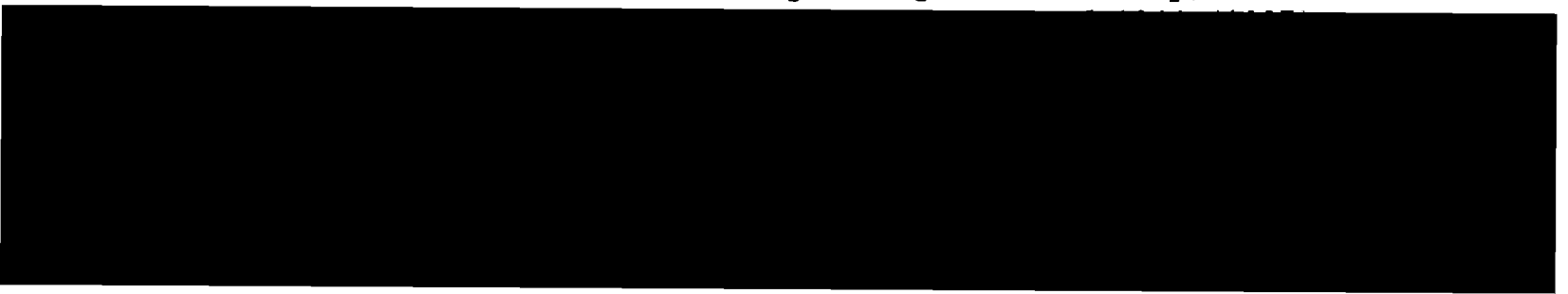
¹ *In the Matter of Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Video Programming Accessibility, Report and Order, FCC 97-279, MM Dkt. No. 95-176 (August 22, 1997) ("Report").*

simply no compelling reason for the Commission to reconsider its sound decision not to adopt more burdensome rules.

In response to the Notice of Proposed Rulemaking issued in this proceeding,² RTNDA filed comments and reply comments describing the considerable resources devoted by its members to increase the availability of programming that is accessible to the hearing impaired. RTNDA offered the results of a member survey conducted earlier this year, which indicated that the overwhelming majority of network news is captioned, and that almost 80% of television stations already caption their local news. Information provided by the National Association of Broadcasters, the major television networks, and television group owners on the record in this proceeding corroborates RTNDA's findings.

RTNDA's comments also described the devastating impact expedited implementation schedules and real-time captioning requirements would have on the provision of news and information programming by its members. Depending upon the number of hours of local news programming offered by a station and the quality of real time captioning, the cost of implementing real-time captioning could run anywhere from \$50,000 to over one million dollars. Most of the television

² Implementation of Section 305 of the Telecommunications Act of 1996 -- Video Programming Accessibility, Notice



stations responding to RTNDA's survey indicated that a real-time captioning requirement would add at least \$100,000 to their budgets, in effect crippling their often financially strapped news departments. In short, more onerous captioning requirements would force stations to divert resources from newsgathering functions and/or to discontinue the provision of certain news and information programming.

In its Petition, NAD urges the Commission to require real-time captioning of news and public affairs programming after January 1, 2000, and, until such time as real-time captioning is required, to require that 90 percent of each newscast be closed captioned. Further, NAD would have the Commission mandate that any stations currently providing real-time captioning continue to do so.

For the reasons stated above, the consequences of a near-term, real-time captioning requirement, as proposed by NAD, would be devastating to news organizations. Given the exponential costs associated with this technology, should the Commission require real-time captioning, considerable resources would necessarily be diverted from important newsgathering functions. Reporters would be sacrificed. Small market stations might be forced to discontinue local news broadcasts altogether. Small stations in large markets with limited market share, which typically have a limited audience base, would have no means through which to justify

real-time captioning economically, and would be forced to remove local news programming from their schedules.

Moreover, there is no need for such a requirement. As the Commission's Report recognizes, the interests of both persons with hearing disabilities and the video industry will be served by permitting the use of ENR captioning. Certainly, once stations or news organizations have invested in the software needed to convert a teleprompter script into captions, they will have an incentive to use this equipment for a significant part of their broadcast. However, to require that 90% of such broadcasts be captioned immediately, as NAD proposes, threatens to dictate the content of such newscasts, and would impose unacceptable constraints upon news organizations' ability to inform the public about important, breaking stories.

While NAD's Petition implies that, where ENR is utilized, large portions of local newscasts remain inaccessible to the deaf or hearing impaired, this is often not the case. Even non-scripted elements of news programming that are not captured by ENR can be communicated in other ways or at other times, e.g., through the use of graphics or crawls. The important information contained in weather reports is usually conveyed through graphics. A late-breaking news report which is broadcast initially without captions can often be communicated to hearing

impaired viewers through ENR captions only minutes later, in a recap of the story, after a script has been prepared.

Finally, the suggestion that programmers be obligated to continue to use real-time captions for news programming that is currently captioned using that methodology completely ignores the vicissitudes of the marketplace. For example, while a number of stations caption one or more of their local newscasts using the real-time methodology, their captioning efforts are typically underwritten by corporate sponsors such as Bell Atlantic. Should that sponsorship be lost, for whatever reason, under the rule NAD proposes, these news organizations would immediately be forced to absorb the cost of real-time captioning, again, potentially devastating the news operation.

The Commission's Report, and the rules governing the closed captioning of video programming it adopts, carefully balance the legitimate interest of the deaf and hearing impaired in having access to news and information programming against the economic and logistic realities of programmers' providing captioning. As such, and contrary to NAD's assertions, the rules are fully consistent with Congress's intent, as expressed in Section 713 of the Telecommunications Act of 1996, that programmers be left significant discretion as to when and what to caption, and that captioning requirements not result in undue burdens or

classes of programming not being aired. It certainly cannot have been Congress's intent through Section 713 to impact negatively upon the quality and local nature of news broadcasts. Such a result would be inconsistent with the public's interest in preserving diversity of programming, and contravene the Commission's long-standing efforts to ensure that local programming responds to the needs of the community.

RTNDA, therefore, respectfully submits that the rules adopted by the Commission pertaining to the closed captioning of news programming be retained, and that NAD's Petition be denied.

Respectfully submitted,

**THE RADIO-TELEVISION NEWS DIRECTORS
ASSOCIATION**

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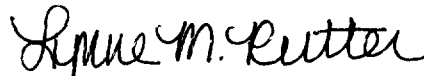
Its Attorneys

November 20, 1997

CERTIFICATE OF SERVICE

I, Lynne M. Rutter, hereby certify that a true and accurate copy of the foregoing "Opposition to Petition for Reconsideration" was this the 20th day of November, 1997, mailed via First Class Mail, postage prepaid, to the following:

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